

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
5:10-CR-279-BR-1

UNITED STATES OF AMERICA

v.

GABRIEL GUZMAN-MORENO,

Defendant.

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ORDER

This case came before the court today for a hearing in accordance with 18 U.S.C. § 4241(e) and § 4247(d) to determine whether defendant's competency has been restored to such an extent that he is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense. At the hearing, the government was represented by Assistant United States Attorney Yvonne V. Watford-McKinney and defendant, who was present in the courtroom, was represented by Assistant Federal Defender Joseph L. Ross, II. The court advised defendant of his rights under 18 U.S.C. § 4247(d).

Without objection, the court admitted into evidence the Certificate of Restoration of Competency dated 17 June 2011 (D.E. 28-1) and the Forensic Evaluation dated 26 May 2011 (D.E. 28-2), which were prepared at the Federal Correctional Institution at Butner, North Carolina, pursuant to the order entered 23 November 2010 (D.E. 22). The Forensic Report concludes that following treatment with appropriate medication defendant is now competent to stand trial, but that such competency is dependent on continuation of treatment. Neither party offered any further evidence.

After consideration of the Forensic Report and as announced at the hearing, the court FINDS by a preponderance of the evidence, pursuant to 18 U.S.C. § 4241(e), that defendant has

recovered to such an extent that he is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense.

IT IS THEREFORE ORDERED, pursuant to 18 U.S.C. § 4241(e), that defendant be discharged from the facility in which he is hospitalized.

IT IS FURTHER ORDERED that the criminal case against defendant proceed, subject to action by the court on the proposed order tendered by the government to the court at the hearing providing for the dismissal of the indictment against defendant.

SO ORDERED, this the 14th day of July 2011.


James E. Gates
United States Magistrate Judge